

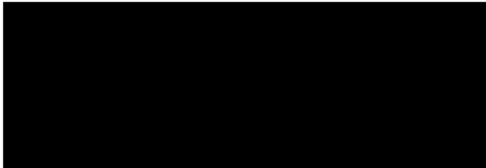


**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**


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July 2, 2024



Jennifer Madera  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

RE:   
Case No. CWA - 211772

Dear Parties:

Enclosed is a copy of the Final Decision in the above-referenced matter.

Sincerely,  


Shannon Buboltz  
Legal Associate Supervisor

c: Bureau of Long-Term Support - email



STATE OF WISCONSIN  
DEPARTMENT OF HEALTH SERVICES

In the Matter of

DECISION

Case No: CWA-211772

The attached proposed decision of the Administrative Law Judge dated April 2, 2024, is hereby adopted as the final order of the Department.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST". Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.


The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, WI, 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing request (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of  
Madison, Wisconsin, this 2<sup>nd</sup> day  
of July, 2024.

  
Kirsten L. Johnson, Secretary  
Department of Health Services



**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of



**PROPOSED DECISION**  
Case #: CWA - 211772

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**PRELIMINARY RECITALS**

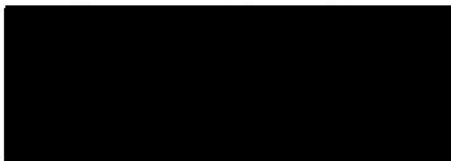
Pursuant to a petition filed on January 12, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Department of Health Services regarding IRIS, a hearing was held on February 8, 2024, by telephone.

The issue for determination is whether Petitioner's IRIS re-enrollment date should be revised from November 3, 2023 to November 1, 2023.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Jennifer Madera, Financial Eligibility Specialist, TMG  
Department of Health Services  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner is a resident of Grant County who is enrolled in the IRIS Program. TMG is his IRIS Consultant Agency.
2. Petitioner resides at [REDACTED]
3. Petitioner was required to renew his Community Waivers / Medicaid eligibility (and IRIS enrollment) by October 31, 2023.
4. On October 18, 2023, which was the adverse action date for the month of October 2023, Petitioner filed a request to renew his Medicaid with his local Income Maintenance Agency. (Testimony of J. Madera).
5. The Department of Health Services ended Petitioner's Medicaid eligibility effective November 1, 2023 and, as a result, the Department also involuntarily disenrolled him from IRIS effective that date.
6. On November 3, 2023, Petitioner completed the Medicaid renewal process and his Medicaid was subsequently backdated to November 1, 2023.
7. After Petitioner completed his Medicaid renewal, TMG completed an expedited re-enrollment that allowed his IRIS to re-open on November 3, 2023.
8. Providers who were authorized to provide Petitioner with IRIS approved services prior to November 1, 2023 continued providing those cares to him on November 1, 2023 and November 2, 2023 despite his temporary disenrollment but they have not been paid for those services.
9. On January 12, 2024, the Division of Hearings and Appeals received a request for state fair hearing from Petitioner.

### DISCUSSION

The Include, Respect, I Self-Direct (IRIS) program is a Medical Assistance long term care waiver program that serves elderly individuals and adults with physical and developmental disabilities. IRIS is an alternative to Family Care, Partnership, and PACE—all of which are managed long term care waiver programs. The IRIS program, in contrast, is designed to allow participants to direct their own care and to hire and direct their own workers. The broad purpose of all of these programs, including IRIS, is to help participants design and implement home and community based services as an alternative to institutional care. See *IRIS Policy Manual §1.1B*, *Medicaid Eligibility Handbook §28.1*, et. seq. and 42 C.F.R. §441.300, et. seq.

The IRIS waiver application most recently approved by the Centers for Medicare and Medicaid Services (CMS) is available on-line at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. See *Application for 1915(c) HCBS Waiver: WI.0484.R03.00 - Jan 01, 2021*. State policies governing administration of the IRIS program are included in the *IRIS Policy Manual* (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708.pdf>), *IRIS Work Instructions* (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>), and *IRIS Service Definition Manual* (available at <https://www.dhs.wisconsin.gov/publications/p00708b.pdf>).

The Department of Health Services is the state agency that oversees and administers the IRIS program and it contracts with and/or assigns specific operational duties to each of the following: Aging and Disability Resource Centers (“ADRCs”), IRIS consultant agencies (“ICAs”), IRIS fiscal employer agents (“FEAs”), and income maintenance agencies (“IM agencies”).

Petitioner filed an appeal because he was involuntarily disenrolled from the IRIS program on November 1, 2023 and November 2, 2023 and his providers are therefore unable to be paid for care they provided him during those two days. At hearing, the Department was represented by Jennifer Madera, a financial eligibility specialist with TMG, an IRIS Consultant Agency.

Ms. Madera explained that Petitioner was involuntarily disenrolled from IRIS because the IM agency temporarily terminated his Medicaid eligibility on November 1, 2023 and November 2, 2023 while it was reviewing his Medicaid renewal request. As detailed in the Findings of Fact, the IM agency ultimately backdated his eligibility to November 1, 2023. Ms. Madera further explained that TMG expedited Petitioner’s re-enrollment into IRIS and, pursuant to instructions provided by the Department of Health Services on September 18, 2023, TMG made his re-enrollment effective as of November 3, 2023 which was the date the IM agency completed its work. Those instructions state, in relevant part:

[Following the end of the Covid-19 related public health emergency], there have been instances where IRIS participants have failed to complete their review timely causing them to lose Medicaid. Per IRIS policy, IRIS program eligibility and enrollment can only occur once a participant has established Medicaid, therefore if a participant loses Medicaid, their IRIS enrollment is also ended.

During COVID unwinding DHS has implemented a temporary process that allows for an *expedited re-enrollment* to minimize the impact to IRIS participants supports and services. [IRIS] participants who lost and regained Medicaid within the following month of their lapse were allowed to re-enroll into the IRIS program without going through the standard enrollment process. The Department uses the CARES system to identify the date in which Medicaid was established to serve as the new IRIS enrollment date.

In these instances, there is typically several days in which the IRIS participant was not enrolled in the IRIS program which prohibits the Department from paying for services rendered during this period.

Ms. Madera testified that she believed that a “system error” caused Petitioner’s Medicaid to end on October 31, 2023 and that it should have continued past that date because he initiated his renewal process by the adverse action date of October 18, 2023. She theorized that his renewal may have been received after “adverse action was already run” on that date and explained that had it been received earlier on the same date, his deadline for completing the Medicaid renewal would have been extended past October 31, 2023 and that he therefore should not have been disenrolled from IRIS as of November 1, 2023.

Petitioner and Respondent agree that, under the facts of this case, Petitioner’s IRIS enrollment date should be revised from November 3, 2023 to November 1, 2023. Because the Department of Health Services has found that “DHA does not have the authority to make a final decision to adjust the enrollment date in the IRIS program under the expedited re-enrollment process”. (Wis. Div. Hearings & Appeals Jan. 4, 2024) (DHS), this decision is being issued as proposed.

#### CONCLUSIONS OF LAW

Petitioner’s enrollment date for IRIS should be adjusted to November 1, 2023.

**THEREFORE, it is**

**ORDERED**

That, if this proposed decision is adopted as final by the Department Secretary, the agency must, within ten days of the date of the Final Decision, take all necessary administrative steps to revise the petitioner's IRIS enrollment date to November 1, 2023.

**NOTICE TO RECIPIENTS OF THIS DECISION:**

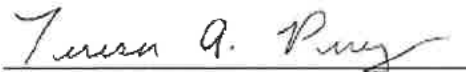
This is a Proposed Decision of the Division of Hearings and Appeals. IT IS NOT A FINAL DECISION AND SHOULD NOT BE IMPLEMENTED AS SUCH.

If you wish to comment or object to this Proposed Decision, you may do so in writing. It is requested that you briefly state the reasons and authorities for each objection together with any argument you would like to make. Send your comments and objections to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy to the other parties named in the original decision as "PARTIES IN INTEREST."

All comments and objections must be received no later than 15 days after the date of this decision. Following completion of the 15-day comment period, the entire hearing record together with the Proposed Decision and the parties' objections and argument will be referred to the Secretary of the Department of Health Services for final decision-making.

The process relating to Proposed Decision is described in Wis. Stat. § 227.46(2).

Given under my hand at the City of Madison,  
Wisconsin, this 2<sup>nd</sup> day of April, 2024



Teresa A. Perez  
Administrative Law Judge  
Division of Hearings and Appeals